

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

Mary Stone (Pseudonym),	:	
	:	
Plaintiff,	:	Case No.
v.	:	
	:	Judge to be assigned
Mahoning County, <i>et al.</i>	:	Magistrate Judge to be assigned
	:	
Defendants.	:	

---

**NOTICE OF REMOVAL**

---

In accordance with 28 U.S.C. §§1331, 1441, and 1446, Defendants, Mahoning County, Warden William Cappabianca, Captain Kenneth Kountz, and Captain Joseph Hood, by and through counsel, hereby respectfully file this Notice of Removal of *Mary Stone (Pseudonym) v. Mahoning County, et al.*, Mahoning County, Ohio, Court of Common Pleas No. 2023-CV-00834. See also Fed. R. Civ. P. 81(c). In support of this Notice of Removal, Defendants state as follows:

1. On or about May 3, 2023, Plaintiff Mary Stone initiated *Mary Stone (Pseudonym) v. Mahoning County, et al.*, Mahoning County, Ohio, Court of Common Pleas No. 2023-CV-00834, by filing her Complaint in the Mahoning County Common Pleas Court. The Complaint is attached hereto. (Exhibit 1).

2. Counsel for Defendants received waivers of service on or about May 8, 2023. Waivers of service were executed on behalf of the Defendants. Their Answer is due on July 7, 2023.

3. Plaintiff alleges that Defendants violated Plaintiff's civil rights pursuant to the "United States Constitution under 42 U.S.C. § 1983 (including violations of the 14<sup>th</sup> Amendment

to the Constitution), with pendent claims for violations of Ohio law, including statutes establishing civil liability for criminal acts like dereliction of duty.” (Exhibit 1, ¶ 1).

4. Plaintiff seeks monetary and punitive damages against Defendants, plus attorney fees.

5. The constitutional claims asserted by Plaintiff state Federal Questions pursuant to 28 U.S.C. §1331. As a result, this case is being removed on Federal Question grounds.

6. This Court has original jurisdiction over the underlying matter pursuant to 28 U.S.C. §§1331, 1343, and 1441. Further, Defendants respectfully request that this Court exercise its supplemental jurisdiction over any of Plaintiff’s attempted state law claims. See 28 U.S.C. §1367.

7. Attorneys Daniel T. Downey, Jennifer M. Meyer, and Angelica M. Jarmusz represent all Defendants in this matter.

8. Removal was commenced sooner than 30 days after Defendants first received a copy of the Complaint.

9. Copies of all process, pleadings, and documents served upon Defendants are attached in accordance with 28 U.S.C. §1446 (a).

**WHEREFORE**, Defendants hereby respectfully and unanimously remove this lawsuit to this Honorable Court.

Respectfully Submitted,

s/ Daniel T. Downey

Daniel T. Downey (0063753)

Jennifer M. Meyer (0077853)

Angelica M. Jarmusz (0092249)

**FISHEL DOWNEY ALBRECHT & RIEPENHOFF LLP**

7775 Walton Pkwy, Suite 200

New Albany, Ohio 43054

(614) 221-1216 – Telephone

(614) 221-8769 – Fax

[ddowney@fisheldowney.com](mailto:ddowney@fisheldowney.com)

[jmeyer@fisheldowney.com](mailto:jmeyer@fisheldowney.com)

[ajarmusz@fisheldowney.com](mailto:ajarmusz@fisheldowney.com)

*Attorneys for Defendants Mahoning County, Warden  
Cappabianca, Captain Kountz, and Captain Hood*

**CERTIFICATE OF SERVICE**

This is to certify that the foregoing *Notice of Removal* was filed electronically through the Court's system this 7<sup>th</sup> day of June 2023. A true and accurate copy of the foregoing filing has also been electronically served upon Plaintiff's counsel, with regular U.S. Mail to follow, this 6th day of June 2023.

s/ Daniel T. Downey

Daniel T. Downey (0063753)

**FISHEL DOWNEY ALBRECHT & RIEPENHOFF LLP**

*Attorneys for Defendants Mahoning County, Warden  
Cappabianca, Captain Kountz, and Captain Hood*

ELECTRONICALLY FILED  
2023 May 03 PM 10:50  
Anthony P. Vivo, CLERK OF COURT - MAHONING

IN THE COURT OF COMMON PLEAS  
GENERAL DIVISION  
MAHONING COUNTY, OHIO

**Mary Stone**

(Pseudonym)

c/o The Chandra Law Firm LLC

The Chandra Law Building

1265 W. 6th Street, Suite 400

Cleveland, OH 44113-1326

Plaintiff,

v.

**Mahoning County**

c/o Mahoning County Sheriff's Office

110 5th Avenue

Youngstown, Ohio 44503

**William Cappabianca**

Warden, Mahoning County Sheriff's Office

110 5th Avenue

Youngstown, Ohio 44503

**Kenneth Kountz**

Former Assistant Warden, Mahoning County

Sheriff's Office

110 5th Avenue

Youngstown, Ohio 44503

**Joseph Hood**

Captain, Mahoning County Sheriff's Office

110 5th Avenue

Youngstown, Ohio 44503

Defendants.

Case No.

Judge

COMPLAINT WITH JURY DEMAND

NATURE OF ACTION

1. This is a civil-rights action for violations of the United States Constitution under 42 U.S.C. § 1983 (including violations of the 14th Amendment to the Constitution), with pendent claims for violations of Ohio law, including statutes establishing civil liability for criminal acts like dereliction of duty.

2. For 13 years, Deputy Stone was a dedicated and diligent reserve deputy and then deputy with the Mahoning County Sheriff's Office who had never been subjected to disciplinary action regarding any aspect of her work performance. Despite this, she ultimately faced every female deputy's worst fear—she was violently assaulted and raped by a male inmate while performing her duties.

3. Had they taken reasonable and appropriate steps to secure an inmate whom they knew was dangerous, Jail supervisors could have prevented the victimization of Deputy Stone. All deputies deserve a safe and secure place to work, and the Sheriff's department must be held accountable when its leaders fail to take basic steps to protect their employees.

#### **PARTIES**

4. Plaintiff Mary Stone is a Mahoning County Sheriff's deputy and survivor of sexual assault. She resides in Mahoning County, Ohio.

5. Defendant Mahoning County is a political subdivision as defined in Ohio Rev. Code § 2744.01. Mahoning County is liable for acts and omissions taken under its customs, policies, patterns, or practices. Mahoning County is also responsible for training and supervising its employees in carrying out their duties in a lawful manner.

6. Defendant William Cappabianca was at all relevant times the warden for the Mahoning County Sheriff's Office and acting under color of state law. He is sued in both his official and personal capacities.

7. Defendant Kenneth Kountz was at all relevant times the assistant warden for the Mahoning County Sheriff's Office and acting under color of state law. He is sued in both his official and

personal capacities.

8. Defendant Joseph Hood was at all relevant times a captain for the Mahoning County Sheriff's Office and acting under color of state law. He is sued in both his official and personal capacities.

### **JURISDICTION AND VENUE**

9. This Court has jurisdiction because the suit concerns state-law violations by Defendants and the amount in controversy exceeds \$25,000.

10. The suit concerns civil liability for acts that occurred in this county.

11. Venue in the instant matter is proper in the Mahoning County Court of Common Pleas under Ohio Rule of Civil Procedure 3(B), based upon the following:

- a. One or more Defendants has his principal place of business in Mahoning County, Ohio;
- b. One or more Defendants conducted the activity giving rise to the claims for relief in Mahoning County, Ohio;
- c. A public officer maintains his principal office in Mahoning County, Ohio, and this suit is brought against the officer in the officer's official capacity;
- d. All or part of the claims for relief arose in Mahoning County, Ohio.

### **FACTUAL BACKGROUND**

**In April 2022, inmate Rondell Harris was transferred from the maximum-security Ohio State Penitentiary to the Mahoning County Jail, where he swiftly developed a reputation for inappropriate conduct.**

12. Rondell Harris's administrative file includes record of a prior conviction for attempted gross sexual imposition in Marion County Common Pleas Court Case No. 2009-CR-0237 against a social worker in the Marion County Indian River juvenile institution. Consequently, Inmate Rondell Harris must register as a Tier I Sexual Offender.

13. Soon after his arrival at the Mahoning County Jail, Harris's disruptive and grotesque behavior became apparent to staff and supervisors. In recognition of this, Jail staff and supervisors placed Harris in the disciplinary unit.

14. Jail staff and supervisors later transferred Harris to the medical unit and placed him on suicide watch, but when the watch was lifted, Jail supervisors failed to transfer him back to the disciplinary unit. Harris unjustifiably remained in the medical unit—as opposed to a disciplinary holding cell where he belonged.

15. When Deputy Stone first encountered Harris in the medical unit, Harris was known to be a chronic masturbator.

16. When Deputy Stone was assigned to guard the medical unit, Harris stood close to the door of his cell, naked, and masturbated in front of her. Deputy Stone reported Harris's behavior, as she was trained to do.

17. In addition to the incident described above, Harris masturbated in front of at least five other deputies in early April 2022—each Deputy logged Harris's behavior.

As would be expected, Harris's misbehavior continued and escalated to include writing letters to female staff members filled with explicit comments and inappropriate requests.

18. In mid-April 2022, Harris wrote a sexually suggestive note to a female staff member:

17011025-8494 © RICHARD SUGGET

I'M A VERY SEXUAL PERSON BABE. SO EXCITED MY CHARACTER

~BY THE WAY~

XOXO~ YOU LOOK BEAUTIFUL TODAY~ XOXO

GOOD MORNING MAMOR, SONG: "IN MY FEELINGS" - BY: KEL GRI

(IDK) WHETHER YOU BELIEVE ME OR WHAT?

BUT ON MY SOUL, YOU SAY YES AND FUCK WITH ME, IT'S ALL ABOUT YOU, ON ALLAH. I'M THE KONGA MAN, THAT WOULD NEVER SWITCH OUT A DIME 4 A PENNY! YOU TOO BOOSED UP 4 ME 2 ENTERTAIN THESE MEDIOCRE BASIC BITCHES.

TOO BE FRANK, YOUR THE DEFINITION OF A BAD BITCH! AND I MEAN THAT WITH THE UPMOST RESPECT! I'M TRYNA HAVE YOU PARKINER A BEUTLY BUSTAYCA OR ROLL ROYCE TRUCK, NEXT 2 THAT RANCA. I CAN DO THAT FROM 911 HERE WITH YOUR ASSISTANCE 9TS \$1200 A SHEET ON THE K-2 SIDE AND \$150 A STRAP, THAT MEH SAH QUICK TOO. BUT WHEN I GO FEDERAL THAT ALL INCREASES 9TS \$2500-\$3,000 A SHEET AND \$250-\$600 A STRAP A 1,000 FOR A 8" OF MEH. IF I COME 911 WITH 9T SAY AS MY COURT DOCKET AND 9UDROTEMENT TRANSCRIPT 4 MY FED CASE #64909-060 THEY CAN'T TAKE 9T FROM ME. ALL I NEED 9S 4 YOU 2 MAKE OR GIVE ME THE CASHAPP/CHIME 2 SEND THE MONEY HS I MAKE 9T. #TRUST. BUT AGAIN THATS ONLY IF YOU TRYNA GO INTO BUSINESS WITH ME. I WANT YOU THE BAG 9S JUST EXTRA. I'M DEEPLY ATTRACTED 2 YOU PHYSICALLY AND I LOVE YOUR OUTGOING PERSONA -LITY. YOUR A FREE SPIRIT 1966 ME #SACRIFICUS. I'M DETERMINED 2 WINS YOUR LOVE W/LOYALTY. TEACH ME HOW 2 BE EVERYTHING YOU WANT AND NEED. I'M A FAST LEARNER AND IT WOULD BE MY PLEASURE. I HOPE YOU SEE MY POTENTIAL

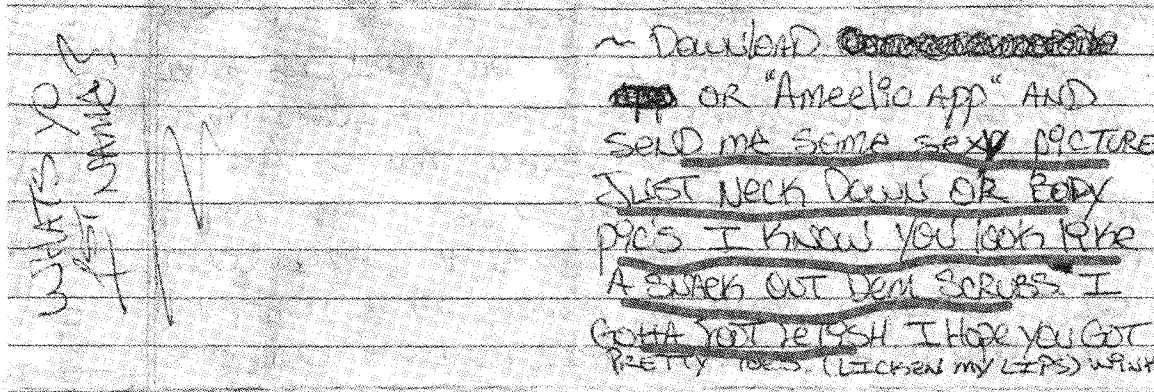


19. In the letter, Harris stated—among other things—that he was “a very sexual person” and thought the female staff member was “beautiful.”

20. Harris also asked the staff member to help him sell drugs and told her, “I’m deeply attracted [to] you physically.”

RAJGA. I CAN DO THAT FROM IN HERE WITH YOUR ASSISTANCE ITS \$1200 A SHEET ON THE K-2 SIDE AND \$150 A STRIP, THAT METH SELL QUICK TOO. BUT WHEN I GO FEDERAL THAT ALL INCREASES ITS \$2500-5,000<sup>+</sup> A SHEET AND \$250-600<sup>+</sup> A STRIP A 1,000 FOR A 8<sup>TH</sup> OF METH. IF I COME IN WITH IT SAY AS MY COURT DOCKET AND JUDGMENT TRANSCRIPT 4 MY FED CASE #64909-060 THEY CAN'T TAKE IT FROM ME. ALL I NEED IS 4 YOU 2 MAKE OR GIVE ME THE CASH/CHIME 2 SEND THE MONEY AS I MAKE IT. #TRUST BUT AGAIN THATS ONLY IF YOU TRYNA GO INTO BUSINESS WITH ME. I WANT YOU THE BAG IS JUST EXTRA. I'M DEEPLY ATTRACTED 2 YOU PHYSICALLY AND I LOVE YOUR OUTSIDE PERSONALITY. YOUR A FREE SPIRIT LIKE ME #SACRIFICE. I'M DETERMINED 2 WIN YOUR LOVE & LOYALTY. TEACH ME HOW 2 BE EVERYTHING YOU WANT AND NEED. I'M A FAST LEARNER AND IT WOULD BE MY PLEASURE. I HOPE YOU SEE MY POTENTIAL

21. Harris asked the female staff member to send him “sexy” photos of herself and told her that he had a foot fetish:



22. The female staff member handed the note to a male deputy on duty, and that deputy reported the note in the Jail's computer system.

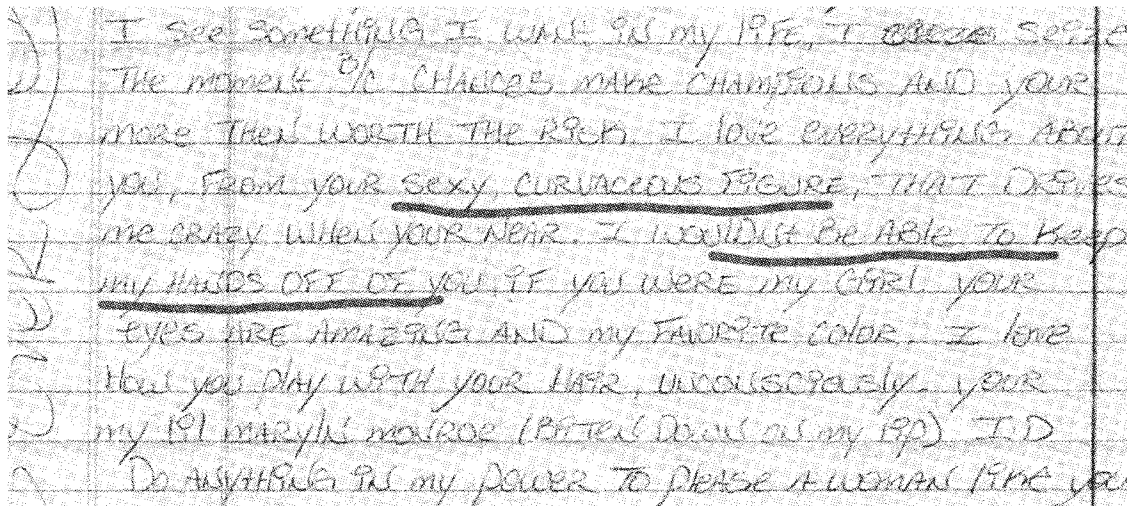
23. Then, despite knowing of Harris's deviant sexual behavior and desires, and his attempted smuggling of contraband, Jail staff and supervisors moved Harris from the more secured cell located nearer to the front of the unit to another cell within the medical unit—a cell that was out of range of security cameras and less secure than other cells in the unit.

RONDELL HARRIS  
THE BEGINNING OF A BOY —  
TICK WITH A CLEVELAND BORN G  
1<sup>ST</sup> AND 1/2<sup>ND</sup>, I HOPE YOU CAN UNDERSTAND  
ITS NOT MY INTENT 2<sup>ND</sup> <sup>PUT</sup> YOU/YOUR JOB IN JEOPARDY.  
BUT IVE ALWAYS BEEN A RISK TAKER, #YOLO! WHEN  
I SEE SOMETHING I WANT IN MY LIFE, I ~~BEFORE~~ SEIZE  
THE MOMENT. % CHANCES MAKE CHAMPIONS AND YOUR  
MORE THEN WORTH THE RISK. I LOVE EVERYTHING ABOUT  
YOU, FROM YOUR SEXY, CURVACEOUS FIGURE, THAT DRENDS  
ME CRAZY WHEN YOUR NEAR. I WOULDNT BE ABLE TO KEEP  
MY HANDS OFF OF YOU IF YOU WERE MY GIRL. YOUR  
EYES ARE AMAZING AND MY FAVORITE COLOR. I LOVE  
HOW YOU PLAY WITH YOUR HAIR, UNCONSCIOUSLY. YOUR  
MY 1<sup>ST</sup> MARYLIN MONROE (BORN DOWN ON MY 1<sup>ST</sup>) I'D  
DO ANYTHING IN MY POWER TO PLEASE A WOMAN LIKE YOU.  
I RESPECT HOW YOU KEEP THE GAME CONCEALED. (WHY?)  
I GOTTA HAVE YOU & YOUR JUST MY TYPE AND I CAN  
TELL YOUR A VERY SEXUAL PERSON 4REAL. IMA NYMPHO  
I WAS 100, WHEN IT COMES TO MY IDEAL ATTRACTION  
WHICH (MIFES) I TAKE PLEASURE IN PLEASING. I AM IN  
A BAD SPACE FAR AS SUPPORT GOES, ALOT OF PEOPLE,  
CANNOT ME OUT OR PUT AWAY. IMA HEARTLESS FELON AND  
I KNOW ITS LOYALTY AND DEDICATION. I WAS RAISED IN  
THE SYSTEM FOSTER HOMES ETC. NEVER REALLY HAD LOVE  
YET TO LOVE SO HARD IT HURTS SOMEONE ESPECIALLY  
WHEN ITS NOT REPROCCATED. I WANT TO BUILD A BOY  
WITH YOU AND SPILL YOU THROUGH MY HUSILE, WHILE I DO  
THIS 2<sup>ND</sup> FED VIOLATION. I COME A FREE MAN, NO PAPERS.  
I WOULD LOVE TO COME HOME TO A BEAUTIFUL WOMAN LIKE  
YOU WITH 6 SINGERS, SINGS NO, SO WE CAN GROWST AND LET



~ CREATE A EMPIRE my ex RAN OFF LAST YR W/TH 80K  
 WE MADE 20K+HER ON SOME PETTY SHYESTY BIFT + DYS/...  
 THATS WHY I'M DOWN ON MY LUCK RECENT NOW. BUT WHERE  
 THERE IS A WILL THERE'S A WAY. ITS SO DRY ON THE  
 K-2/STROPS SIDE WE'D MAKE A KILLER! THATS WHY  
 I CAME 2 MEDICAL P/O THE REST OF THESE BROADS  
 TAKEN OR NOT 4 DA STRUGGLE, CHASIN CLEUT OR SOME DICK  
 FROM A GARCETA I'M COOL ON SACK CHASERS, I'M LOCKIN 4  
 THAT ONE, THATS DOWN TO MATCH MY ENERGY AND  
 I'll GIVE MY ALL TOO KEEP HER. IF I HAD A PHONE I  
 COULD MAKE POWER PLAYS 4 US AND BE ABLE TO REALLY  
 CONNECT W/TH YOU THIS SPOT SWEET 4 REAL ITS PLUS IN  
 MY CELL ALL I NEED IS A EMAIL/HIDROFID/CHARGER, SO I  
 CAN TAPE IT 2 THE BOTTOM OF THE SACK. THEY'LL NEVER  
 FIND IT. PLUS MY CELL IS ON THE OPPOSITE SIDE OF THE CAMERA  
 WHEN YOU COME TO MY DOOR AND PUT YOUR BACK/OR THE CART  
 IS THE OTHER CAMERAS VIEW IT CANT SEE WHOVER YOU PASS  
 ME. I'M NOT LEAVING FROM MEDICAL W/TH BFG SECURED OF  
 THAT P/O YOU JUST HAVE 2 MOVE DA BAG IF YOU DONT WANT  
 ALL I NEED IS YOU BY MY SIDE AND I'M SATISFIED, I'll  
 LEAVE THESE OTHER HOES ALONE, ON A LAM. I JUST NEED A P/O  
 PONY THATS GONE PISTEN! GIVE ME AN ADDRESS/P.O BOX TO  
 BE ABLE 2 WRITE YOU DISCREETLY AND GET A TXT APP # 4 ME  
 2 BE ABLE 2 CALL SECURELY, I KNOW WHAT NOT 2 SAY BAP2.  
 LEAVE YOUR CONTACT INFO WITH MY SISTER SHARNAE (HOG) 0052 2018  
 2 SCHILDSNUGGET ON FACEBOOK, SHE LIVE IN TEXAS, I A'READY  
 TOLD HER 2 EXPECT SOME REACHIN OUT ON MY BEHALF AND TO  
 STORE THEIR INFO. LEAVE A PHONE WOULD BE EASIER AND SAFER  
 I'll PIGEON/TRACE PHONE UNPINNED, NO TRACE. IF I EVER GET  
 AUGHT, I'M TAKEN ALL THE W/THOUT #NO SPITCHEN! DEATH IS HIS HONOR.  
 OUR WAY TOO VALUABLE TO LOSE. TALK ABOUT IT/ME. THEY CALL ME "HOLYWOOD" XOXO

25. In this note, Harris again expressed a desire to touch the female staff member and praised her “sexy, curvaceous figure.”



A photograph of a handwritten note on lined paper. The text is written in cursive and includes several corrections. The original text is: "I see something I want in my life, I ~~can~~ seize the moment b/c chances make champions and your more then worth the risk. I love everything about you, from your sexy, curvaceous figure, that drives me crazy when your near. I wouldnt be able to keep my hands off of you if you were my girl your eyes are amazing and my favorite color. I love how you play with your hair, unconsciously. your my ppl marylin monroe (painted down as my ppl) I'd do anything in my power to please a woman like you". The word "can" is crossed out and "seize" is written above it. "b/c" is written above "chances". "more then" is written above "more". "I wouldnt" is written above "I wouldnt". "ppl" is written above "ppl". "painted down" is written above "painted down".

26. Harris told the female staff member that his new cell was “sweet” because it contained plugs that would support a phone charger and was “in the blindside of the camera.”

27. Harris explained to the female staff member how she could pass him items without it being captured on camera.

28. As with the first note, this note was discovered by Jail staff members and logged in the computer system for Jail supervisors to review.

**As Jail supervisors did nothing to protect their own deputies, Harris’s attempts to engage female staff members escalated further to include the deputies assigned to guard his cell.**

29. In mid-April, Harris wrote a note to a female deputy asking her to smuggle drugs and a phone into the Jail for his use.

30. Then, on or around May 3, 2022, Harris handed yet another note to a different female deputy:

CALL MY ESSTA, SHENEC! TELL HER YOU  
MY GIRL, WE JUST STARTED ROCKIN' ETC.  
BUT I TOLD YOU 2 STAY IN TOUCH B/C YOU FAMILY  
NOW #AS! (469) 688-8494 SHE'LL PUT YOU UP ON FAME  
ABOUT OUR STRUGGLES, MY LIFE STORY ETC. I'M 1,000 MA!  
LMAO I'M NOT GOING TO ALLOW ANYONE  
TO TRYNA FICK UP WITH ME AND I'M NOT  
TAKING THE FOOT OFF THE GAS P/L  
I CAN TELL YOU YHE ME AS WELL I DON'T  
NEED NOTHING FROM YOU AS FAR AS BRAGGING  
THE BAG IN, THO WE DEFINITELY COULD RUN  
GT UP HERE B/C ITS A PRESENT SOMEWHAT  
BUT WHAT I WANT FROM YOU IS MORE VALUABLE  
THAN MONEY, I CAN SEE INS YOU THE ATTRIBUTES  
EVERY REAL STREET MEGA BOSS 4, AND THAT'S  
A DOWNS 2 EARTH NOT JUDGEMENTAL, HUMBLE,  
GOOD FEMALE WHO'S NOT AFRAID 2 BE HERSELF  
I ONLY DATE WHITE GIRLS, AND I LOVE THICK  
FEMALES, YOU GOT POFER AND POTENTIAL. I'M SINGIN  
G/F (LOL) ALL THE ppl I WAS TOXEN WITH HAS  
LEFT ME 4 DEAD, I ASHT GOT NERDY, I'M  
ON MY KNUCKLES. BUT GMA BECOME BACK A/ALL  
KNUCK'S BEST, YOU FEEL ME. I'M TOO GOOD OF  
A DUDE 2 STAY DOWN. BUT FOUNDATION IS KEY.  
I'M WILLING 2 DO WHATEVER YOU NEED 2 ME  
2 PROVE I'M NOT ON NO THAT SHIT, I'M  
TRYNA LOCK IN WITH YOU YOUR WET THE ONLY PERSON  
I'VE SHOT MY GUN @ (TEH) BUT YOUR THE  
ONLY ONE WHO'S EVERYDAY AND VIBE GOT MY  
FULL ATTENTION AND I'M SO ATTRACTED 2 YOUR  
PERSONALITY I FEEL YOUR MY TYPE AND WORTH  
THE CHANGE ALL I NEED IS YOUR TRUST, HONESTY

SHARKE HARRIS (650)  
688-8494  
469-688-8494  
688-8494  
688-8494

TO: My Harris Essta



AND LOYALTY YOU MUST FOLLOW MY LEAD B/C  
 I'M IN A POSITION WHERE 4 THINGS I WORK  
 YOU MUST CORRESPOND WITH ME DISCREETLY AND  
 STAY IN LINE WITH MY FAMILY. ALL I GOT IS  
 MY ESTATE DOWN IN TEXAS, @RICHAS KWEEET  
 GET @ HER ON THE BECK AND WE'LL STAY  
 CONNECTED THRU HER. I'M NOT 2 CUP OUT 2 THINGS  
 STOPPED ASS CASE, RUN MY TIME CONCURRENT WITH  
 MY FED VIOLATION 24 MONTHS, AND S/PIDE, SO I  
 CAN BE ABLE 2 REALLY COMMUNICATE WITH YOU WITHOUT  
 JEOPARDIZING YOUR CAREER.  
 I WANNA GET 2 KNOWS YOU BETTER THEN YOU  
 KNOW YOURSELF. THATS THE ONLY WAY I CAN LOVE  
 YOU AND MAKE YOU HAPPY AND HEAL YOU FROM WHATEVER  
 PAIN/STRUGGLE LIFE HAS BRUNG YOU. I'M IN A POSITION  
 RIGHT NOW WHERE WE CAN GET AWAY WITH ALOT, DUE  
 2 HOW THIS CHIPS. I WANNA KISS YOU, AND  
 HUGS AS YOU'VE BEEN EVERY YEAR SINCE I'VE FELT  
 SOMETHING SOFT ON MY ARMS AND YOUR IPS LOOK TOO  
 TENDER (LO) LET ME BE YOUR K/ SECRET (WINK)  
 YOU CAN GIVE ME YOUR # AND A ADDRESS 4 ME 2  
 USE 2 COMMUNICATE DISCREETLY WHEN YOU BRING  
 ME MY FOOD B/C WE'RE OFF CAMERA ON MY SCOL I'M  
 PUT IT IN MY CONTACTS IN CODE SO IT WON'T BE  
 DETECTED BUT I'LL REMEMBER IT. I'M NOT GENE GIVE  
 UP TEL YOU MY CAR. I'M TRYNA GIVE YOU A GOOD 2  
 SORRY OUR LEAD AND SHOW YOU I'M TRYNA LOOK IT  
 IN LONGWAY. I THINK YOU'D MAKE A GOOD MOM AND I  
 WANST A FAMILY, SOMETHING 2 MARK A NEW BEGINNING  
 I'VE BEEN THRU ALOT AND NEVER REALLY HAD NO FAMILY,  
 SO I'D CHERISH YOU EVEN MORE IF YOU GAVE ME THAT  
 GIFT. I'M MISUNDERSTOOD 4REAL. I'M A GOOD MAN 

ITS WEAK A/F NOW B/C ALOT OF PR'S GOT  
DELETED (SMH) BUT MY BROTHER SISTER RUN MY  
SHT NOW (SHRUGS) IMA FALLBACK ON ALL THESE  
HOEZ ONCE YOU STAMP IT OFFICIAL NONE OF THAT  
JACKIN, FORTUN, NOTHING ON ALLAH! JUST  
2 PROVE 2 YOU 9M NOT TAKEN. BUT YOU GOTTA  
LET ME KNOW YOU GIVEN ME A CHANCE AND WILL  
2 RIDE 4 ME BABYEARL! THAT I'll GIVE YOU ALL THE



31. Harris reiterated in that note that he knew that, when the female deputy brought him food, his cell was out of the range of security cameras.

YOU CAN GIVE ME YOUR # AND A ADDRESS 4 ME 2  
USE 2 COMMUNICATE DISCREETLY WHEN YOU BRING  
ME MY FOOD Y/C WERE OFF CAMERA ON MY SEUL IMA  
PUT IT IN MY CONTACTS AS CODE SO IT WONT BE  
DETECTED BUT ILL REMEMBER IT. IMA NOT GONE GIVE  
UP TIL YOU MY CAR. IM TRYNA GIVE YOU A SEED 2  
SUPPORT OUR BUD AND SHOW YOU IM TRYNA LOOK IT  
AS LONGWAY. I THANK YOU D MAKE A GOOD MEM. AND I

32. And Harris expressed his desire to kiss and touch this deputy:

YOU KNOW YOUR CAREER  
I WANNA GET 2 KNOWS YOU BETTER THEN YOU  
KNOW YOURSELF THATS THE ONLY WAY I CAN LOVE  
YOU AND MAKE YOU HAPPY AND HEAL YOU FROM WHATEVER  
PAIN/STRESSOR PTE HAS BRUNG YOU. IM IN A POSITION  
RIGHT NOW WHERE WE CAN GET AWAY WITH ALOT, DUE  
2 HOW THIS CELL IS. I WANNA KISS YOU AND  
HUG AS YOU ITS BEEN EVERY YEAR SINCE IVE SEIT  
SOMETHING SEIT ON MY ARMS AND YOUR PDS LOOK TOO  
TENDRABLE LET ME BE YOUR #1 SECRET (WINK)

33. As required by official policies, that deputy reported in the computer log and to a supervisor that Harris had handed her the note—and emphasized that Harris knew his cell was off-camera and was trying to get her to visit his cell.

34. Fearing that Harris may attempt to pull her into his cell, the deputy bluffed to Harris that there were male deputies assisting her on her shift that evening. The deputy logged this into the computer system as well and noted her fear that Harris would attempt to touch her or harm her if he knew she was alone.

35. By this time, Jail supervisors had been made aware, on multiple occasions, of Harris's deviant sexual desires and his aggressiveness toward female deputies. For example, on April 12, 2022, one deputy-sergeant alerted jail supervisors of Harris's dangerousness via email:

**Budaker, Henry**

---

**From:** Budaker, Henry  
**Sent:** Tuesday, April 12, 2022 11:01 PM  
**To:** MCSOJailSupervisors  
**Subject:** Advise staff to keep an eye on this inmate.  
**Attachments:** Harris, Rondall 0069246.pdf

I am sending this email as a precautionary measure.

On 04/12/2022 in Harris, Rondall PID/0069246 was taken to C Pod and placed on suicide watch by medical. He also made comments about being homicidal.

This inmate is housed in C Pod with a notation made not to double bunk this inmate.

He was booked here on 04/06/2022. Since then he has earned numerous write-ups and appears to have no remorse for his infractions.

It appears that he self gratifies himself towards female staff on a regular basis.

When talking to him you could I could detect the hostility that he has and we should make sure Deputies keep close eye on him.

Stay safe.

Sgt.Budaker M-30

36. As mentioned above, Harris was previously convicted in Marion County for a sexual attack on a social worker while he was incarcerated.

37. Under Jail policies, supervisors on duty are required to check the prior deputy's log within a few hours of her shift. Yet no supervisors took appropriate actions to adequately secure Harris or move him to another cell within the security-camera range—despite being warned by at least two separate notes that Harris was aware that he was off-camera and was likely to engage in illegal actions in that cell.

38. Lieutenants Gerald D'Angelo, Matthew Dugan, Salvatore Pascarella, and Joseph Varone were supervisors assigned to the Jail. Based on information and belief, Harris's behavior and notes were known to these Lieutenants, who informed their superiors.

39. At this time, Defendant Warden William Cappabianca, Assistant Warden Kenneth Kountz, and Captain Joseph Hood were in charge of the Jail and supervised Lieutenants D'Angelo, Dugan, Pascarella, and Varone, as well as other Jail staff.

40. Defendants Cappabianca, Kountz, and Hood had the authority and responsibility to take corrective and preventive measures against Harris when this information became known. Yet they failed to act—ultimately resulting in great and immeasurable harm to Deputy Stone.

**Following weeks of inaction and neglect by Jail supervisors, inmate Harris assaulted and nearly killed Deputy Stone.**

41. Within days of Harris's note expressing a desire to sexually touch a female deputy, on or around May 5, 2022, Deputy Stone was assigned to guard the medical unit where Harris remained.

42. Located within the medical unit is a dry-erase board with each inmate's name and background information, such as suicide watch, psychiatric, and other pertinent information. At the start of her shift, Deputy Stone read the dry erase board, which listed Harris as an inmate and stated "Do not move per Commander Kountz."

43. Lieutenant Pascarella visited the medical unit that day and asked Deputy Stone why Harris was still on the medical unit and asked why he had not been transferred back to the disciplinary unit. Pascarella informed Deputy Stone that he was going to speak to Kountz as to why Harris had not been transferred.

44. Deputy Stone was assigned to guard the unit—alone—as female deputies working in male units often were.

45. After Harris returned from his daily hygiene and shower routine, he refused to provide Deputy Stone with his food tray and hair clippers, forcing her to approach his cell to collect the items.

46. As she grasped the food tray that inmate Harris was handing back to her, Harris grabbed Deputy Stone, threw her radio in the corridor, and pulled her into his cell.

47. Deputy Stone valiantly fought Harris for four minutes, but she was unable to hold him off.
48. As she screamed for help, he strangled her, threw her to the ground, and ripped her clothes.
49. Rondell Harris violently raped Deputy Stone and then locked her in his cell while he roamed the unit unattended.
50. Deputy Stone was alone. No one came to help her.
51. The deputies assigned to work central control were responsible for monitoring surveillance equipment. Had they done so, the attack Deputy Stone endured would have been discovered immediately and she would not have been violently raped and nearly strangled to death.
52. Deputy Stone remained locked in the cell for at least ten minutes, until two sergeants finally arrived and found Harris standing at the entrance door to the housing unit.
53. As Deputy Stone was taken to the hospital, she begged her supervisor to secure a warrant and ensure that physical evidence was taken from Harris's person before he showered.
54. Harris is now being criminally prosecuted for the attack and rape.
55. Since this horrific attack, Deputy Stone has been experiencing severe physical and emotional trauma—trauma that could have been avoided and occurred, in part, due to deliberate indifference, recklessness, and negligence by Mahoning County Sheriff's Office personnel.
56. Shortly after the attack, Sheriff Jerry Greene expressed his disgust at the mishandling this matter. Greene demoted Defendant Assistant Warden Kountz and transferred Defendant Captain Hood to a different position outside of the Jail.

## **CLAIMS**

### **CLAIM 1**

#### **CIVIL LIABILITY FOR CRIMINAL ACTS (DERELICTION OF DUTY) UNDER OHIO REV. CODE §§ 2307.60 AND 2921.44(C) AGAINST WILLIAM CAPPABIANCA, KENNETH KOUNTZ, AND JOSEPH HOOD IN THEIR PERSONAL CAPACITIES**

57. Plaintiff incorporates all previous allegations.

58. Under the relevant part of Ohio Rev. Code § 2921.44(C)(3), “No officer, having charge of a detention facility, shall negligently... Fail to control an unruly prisoner...” (Cleaned up.)

59. Under the relevant part of Ohio Rev. Code § 2921.44(C)(5), “No officer, having charge of a detention facility, shall negligently... Fail to observe any lawful and reasonable regulation for the management of the detention facility.”

60. Under Ohio Rev. Code § 2901.22(D), “A person acts negligently when, because of a substantial lapse from due care, the person fails to perceive or avoid a risk that the person's conduct may cause a certain result or may be of a certain nature. A person is negligent with respect to circumstances when, because of a substantial lapse from due care, the person fails to perceive or avoid a risk that such circumstances may exist.”

61. Under Ohio Rev. Code § 2307.60, anyone injured in person or property by a criminal act may recover full damages in a civil action. Violations of Ohio Rev. Code §§ 2921.44(C) are criminal acts, indeed misdemeanors, under § 2921.44(F).

62. Defendants have charge of the Jail and are empowered to make decisions regarding the housing of inmates and protection of Jail staff.

63. Defendants failed to control Harris—an unruly prisoner—and/or failed to observe any lawful and reasonable regulation for the management of the detention facility. These failures included, but were not limited to:

- a. Defendants transferred Harris to the medical unit and placed him on suicide watch. But when the watch was lifted, Defendants failed to transfer Harris back to the disciplinary unit where he belonged. Harris should not have remained on the medical unit even for psychiatric observation, which could have been accomplished while he was in general population or had he been moved to a separate housing unit for inmates with psychiatric issues who have difficulty functioning in general population.

- b. When Harris's masturbation and exposure continued, Defendants placed him in a cell toward the back of unit, which was out of range of security cameras.
  - c. Defendants left Harris in this cell despite knowing that he made several sexual advances toward Jail staff.
  - d. Defendants placed a "Do not move" order on Harris in spite of his behavior.
  - e. Defendants required deputies to work alone with dangerous inmates, such as Harris, including female deputies, despite available information documenting Harris's prior history of sexually assaulting a female staff member when he was previously incarcerated.
  - f. Defendants failed to adequately staff the Jail resulting in Harris being able to attack Deputy Stone, lock her in his cell, and roam the Jail unattended for approximately ten minutes while Deputy Stone lay injured and helpless, until staff finally noticed Harris unattended while visiting the unit to speak to a different inmate regarding another matter.
  - g. Defendants failed to collect/preserve evidence from Harris's person following the attack.
  - h. Defendants failed to take any corrective and preventive measures after Harris wrote several sexually explicit notes and provided them to female staff—notes which foreshadowed Harris's inevitable attack on a female staff member.
64. As a direct and proximate result of these actions, Deputy Stone has suffered and will continue to suffer economic and non-economic damages for which the named Defendants are liable, including, but not limited to, pain and suffering, the loss of salary, wages, and benefits, and other terms, privileges, and conditions of employment.

65. Defendants' acts were malicious, in bad faith, performed in a wanton and reckless manner, willful, egregious, and worthy of substantial sanction to punish and deter them and others from engaging in this type of unlawful conduct.

**CLAIM 2**

**FOURTEENTH AMENDMENT VIOLATION UNDER 42 U.S.C. § 1983 FOR FAILURE TO TRAIN AND SUPERVISE EMPLOYEES RESULTING IN HARM TO PLAINTIFF AGAINST DEFENDANTS MAHONING COUNTY, WILLIAM CAPPABIANCA, KENNETH KOUNTZ, AND JOSEPH HOOD IN THEIR OFFICIAL AND PERSONAL CAPACITIES**

66. Plaintiff incorporates all previous allegations.

67. Defendants failed to take the reasonable, necessary, and proper steps to protect Deputy Stone from the violent rape and attack she suffered at the hands of inmate Rondell Harris. These included, but were not limited to:

- a. Defendants transferred Harris to the medical unit and placed him on suicide watch. But when the watch was lifted, Defendants failed to transfer Harris back to the disciplinary unit where he belonged.
- b. When Harris's masturbation and exposure continued, Defendants placed him in a cell toward the back of unit, which was out of range of security cameras.
- c. Defendants left Harris in this cell despite knowing that he made several sexual advances toward Jail staff.
- d. Defendants placed a "Do not move" order on Harris in spite of his behavior.
- e. Defendants required deputies to work alone with dangerous inmates, such as Harris, including female deputies, despite knowing Harris's prior history of sexually assaulting a female staff member when he was previously incarcerated.
- f. Defendants failed to adequately staff the Jail resulting in Harris being able to attack Deputy Stone, lock her in his cell, and roam the Jail unattended for approximately ten

minutes while Deputy Stone lay injured and helpless, until staff finally noticed Harris unattended and went to check on him.

- g. Defendants failed to collect/preserve evidence from Harris's person following the attack.
- h. Defendants failed to take any corrective and preventive measures after Harris wrote several sexually explicit notes and provided them to female staff—notes which foreshadowed Harris's inevitable attack on a female staff member.

68. Defendants displayed a deliberate indifference to the actions leading up and causing Deputy Stone's harm, failed to exercise due care, and acted in a reckless manner.

69. Defendants engaged in the above-mentioned adverse actions while acting under color of state law.

70. Defendants were at all relevant times sufficiently empowered Mahoning County officials that their acts constitute the customs, policies, and practices of Mahoning County. Mahoning County is also responsible for training and supervising its employees in carrying out their duties in a lawful manner. Greene is the highest-ranking official in the Mahoning County Sheriff's Office and Cappabianca, Kountz, and Hood are the highest-ranking administrators in charge of the Jail. All are policymakers.

71. As a direct and proximate result of these actions, Deputy Stone has suffered and will continue to suffer economic and non-economic damages for which the named Defendants are liable, including, but not limited to, pain and suffering, the loss of salary, wages, and benefits, and other terms, privileges, and conditions of employment.

72. Defendants' acts were malicious, in bad faith, performed in a wanton and reckless manner, willful, egregious, and worthy of substantial sanction to punish and deter them and others from engaging in this type of unlawful conduct.



**CLAIM 3**

**RECKLESS HIRING, TRAINING, SUPERVISION, DISCIPLINE, STAFFING, AND RETENTION  
UNDER OHIO LAW AGAINST DEFENDANT MAHONING COUNTY**

73. Plaintiff incorporates all previous allegations.
74. Defendant Mahoning County failed to exercise due care and acted in a reckless manner in hiring, training, supervising, disciplining, staffing, and retaining the individual defendants.
75. The individual defendants were unfit for their positions and duties, as was obvious from their harmful misconduct.
76. Defendant Mahoning County's reckless conduct in this regard proximately caused Deputy Stone's injuries alleged above.
77. As a direct and proximate result of the misconduct and abuse of authority detailed above, Deputy Stone sustained damages.

**CLAIM 4**

**FIFTH AND FOURTEENTH AMENDMENT VIOLATION UNDER 42 U.S.C. § 1983 FOR  
SUBSTANTIVE DUE PROCESS VIOLATION RESULTING IN HARM TO PLAINTIFF AGAINST  
DEFENDANTS MAHONING COUNTY, WILLIAM CAPPABIANCA, KENNETH KOUNTZ, AND  
JOSEPH HOOD IN THEIR OFFICIAL AND PERSONAL CAPACITIES**

78. Plaintiff incorporates all previous allegations.
79. Under the Fifth and Fourteenth Amendment:

[W]here a State creates a perilous situation that renders citizens more vulnerable to danger at the hands of private actors, a plaintiff may bring a substantive due process claim by establishing (1) an affirmative act by the State that either created or increased the risk that the plaintiff would be exposed to private acts of violence, *see Kallstrom v. City of Columbus*, 136 F.3d 1055, 1066 (6th Cir. 1998); (2) a special danger to the plaintiff created by state action, as distinguished from a risk that affects the public at large, *see id.*; and (3) "the requisite [state] culpability to establish a substantive due process violation," *Enwolski v. City of Brunswick*, 287 F.3d 492, 510 (6th Cir. 2002). We have described the "requisite culpability" factor as requiring "deliberate indifference" by the government entity when the entity "had time to deliberate on what to do." *Bukowski v. City of Akron*, 326 F.3d 702, 710 (6th Cir. 2003).

*Schroder v. City of Fort Thomas*, 412 F.3d 724, 727–28 (6th Cir. 2005).

80. Under prong one, Defendants took the following affirmative acts that created and increased the risk of violence against Deputy Stone by Rondell Harris:

- a. Defendants transferred Harris to the medical unit and placed him on suicide watch. But when the watch was lifted, Defendants failed to transfer Harris back to the disciplinary unit where he belonged.
- b. When Harris's masturbation and exposure continued, Defendants placed him in a cell toward the back of unit, which was out of range of security cameras.
- c. Defendants left Harris in this cell despite knowing that he made several sexual advances toward Jail staff.
- d. Defendants placed a "Do not move" order on Harris in spite of his behavior.
- e. Defendants required deputies to work alone with dangerous inmates, such as Harris, including female deputies, despite knowing Harris's prior history of sexually assaulting a female staff member when he was previously incarcerated.
- f. Defendants failed to adequately staff the Jail resulting in Harris being able to attack Deputy Stone, lock her in his cell, and roam the Jail unattended for approximately ten minutes while Deputy Stone lay injured and helpless, until staff finally noticed Harris while visiting the unit on other business.
- g. Defendants failed to collect/preserve evidence from Harris's person following the attack.
- h. Defendants failed to take any corrective and preventive measures after Harris wrote several sexually explicit notes and provided them to female staff—notes which foreshadowed Harris's inevitable attack on a female staff member.

81. Under prong two, Defendants created a special danger to Deputy Stone, separate from the public at large, by exposing her to an inmate, known to be dangerous, while in her place of employment at the Jail.

82. Under prong three, Defendants posed the requisite culpability by acting with deliberate indifference because they were aware of the dangers posed by Rondell Harris, had ample time to deliberate on how to prevent the danger, and still failed to take any actions. Defendant Kountz even placed a “Do not move” order on Harris in spite of all the warnings signs of impending danger.

83. Defendants engaged in the above-mentioned adverse actions while acting under color of state law.

84. Defendants were at all relevant times sufficiently empowered Mahoning County officials that their acts constitute the customs, policies, and practices of Mahoning County. Mahoning County is also responsible for training and supervising its employees in carrying out their duties in a lawful manner. Greene is the highest-ranking official in the Mahoning County Sheriff’s Office and Cappabianca, Kountz, and Hood are the highest-ranking administrators in charge of the Jail. All are policymakers.

85. As a direct and proximate result of these actions, Deputy Stone has suffered and will continue to suffer economic and non-economic damages for which the named Defendants are liable, including, but not limited to, pain and suffering, the loss of salary, wages, and benefits, and other terms, privileges, and conditions of employment.

86. Defendants’ acts were malicious, in bad faith, performed in a wanton and reckless manner, willful, egregious, and worthy of substantial sanction to punish and deter them and others from engaging in this type of unlawful conduct.

**PRAYER FOR RELIEF**

For the reasons stated above, Plaintiff respectfully requests the following relief from the Court:

- A. Declare that Defendants' acts and conduct constitute violations of federal and state law and the United States Constitution;
- B. Enjoin Defendants from retaliating against Stone;
- C. Enter judgment in Stone's favor on all claims for relief;
- D. Award Stone full compensatory damages, economic and non-economic, including, but not limited to, damages for back pay, front pay, pain and suffering, mental anguish, emotional distress, and trauma that she has suffered and is reasonably certain to suffer in the future;
- E. Award Stone punitive damages as appropriate for all intentional and malicious violations of federal and state law and constitutional rights;
- F. Award pre-judgment and post-judgment interest at the highest lawful rate;
- G. Award Stone her reasonable attorney fees, expert fees, and all other costs and expenses of this suit;
- H. Award all other relief in law or equity to which Stone is entitled and that the Court deems equitable just, or proper.

**JURY DEMAND**

Plaintiff demands a trial by jury on all issues within this complaint.

Dated: May 3, 2023

Respectfully submitted,

/s/ Subodh Chandra

Subodh Chandra (0069233)  
Donald P. Screen (0044070)  
THE CHANDRA LAW FIRM LLC  
The Chandra Law Building  
1265 West 6th Street, Suite 400  
Cleveland, Ohio 44113  
216.578.1700 (p) / 216.578.1800 (f)  
Subodh.Chandra@ChandraLaw.com  
Donald.Screen@ChandraLaw.com

Per consent

Martin P. Desmond (0077377)  
Attorney at law  
P.O. Box 14052  
Youngstown, OH 44514  
330.559.4505 (p)  
Mpm4@hotmail.com

*Attorneys for Plaintiff Mary Stone  
(Pseudonym)*

ELECTRONICALLY FILED  
 2023 May 04 PM 3:55  
 Anthony P. Vivo, CLERK OF COURT - MAHONING

IN THE MAHONING COUNTY  
 COURT OF COMMON PLEAS

<p><b>Mary Stone</b>          (Pseudonym)</p> <p>Plaintiff,</p> <p>v.</p> <p><b>Mahoning County, <i>et al.</i></b></p>	<p>Case No. 2023-CV-00834</p> <p>Judge Anthony Donofrio</p>
<p><b>PLAINTIFF'S MOTION FOR LEAVE TO PROCEED UNDER PSEUDONYM</b></p>	

Plaintiff Mary Stone respectfully moves for leave to proceed in this matter under a pseudonym. Her case concerns a matter of the utmost, sensitive intimacy—painful details of a sexual assault by a jail inmate, from which she has yet to recover (and perhaps never will). Plaintiff assumes great risk in seeking justice. A memorandum in support follows.

**MEMORANDUM IN SUPPORT**

**I. Issue Presented**

In deciding whether to allow plaintiffs to proceed pseudonymously, courts consider if the suit involves information “of the utmost intimacy,” whether the Plaintiff is challenging government activity, and Plaintiff’s risk of retaliation in filing the suit under their name. Courts also weigh Plaintiff’s interest in privacy against both Defendants’ interest in disclosure and the public’s interest in open proceedings. Central to Plaintiff’s Complaint is her survival of a violent assault and rape. Plaintiff’s suit puts her at significant risk of reputational harm, social opprobrium, and retaliation. Plaintiff’s identity is already known to Defendants and allowing her to proceed under a pseudonym would not obstruct the public’s interests in her case. Media have already respected her anonymity as

a crime victim. The question before this Court is whether, balancing the considerations and interests above, Plaintiff may proceed under a pseudonym.

## II. Introduction and Factual Background

On May 3, 2023, Plaintiff Stone filed a Complaint in this Court (*Mary Stone v. Mahoning County, et al.*, 2023-CV-00834) which necessarily includes graphic details of the assault and the events that led up to it. Those allegations are incorporated by reference. To ensure Plaintiff may proceed safely, without jeopardizing her recovery (both personal and economic), and without assuming any greater risk of reputational harm and retaliation than is unavoidable, she requests to proceed under the pseudonym Mary Stone.

## III. Law and Argument

Ohio courts routinely allow parties to proceed using pseudonyms—often with little or no analysis of the issue. *See, e.g., Doe v. Shaffer*, 90 Ohio St.3d 388, 389 n. 1 (2000); *Doe v. George*, 12th Dist. Warren No. CA201 I-03-022, 2011 WL 6923156 (Dec. 30, 2011), at \*1 (allowing but not commenting on plaintiffs’ use of pseudonyms); *Doe v. Trumbull Cnty. Children Servs. Bd.*, 11th Dist. Trumbull No. 2004-T-0034, 2005 WL 1075785 (May 6, 2005), \*1 (noting the plaintiff was proceeding under a pseudonym).

Although the practice of proceeding under a pseudonym is well established in Ohio, neither the Ohio Supreme Court<sup>1</sup> nor any Ohio appellate court has yet addressed a challenge to this practice.” *Doe v. Bruner*, 12th Dist. Clinton No. CA2011-07-013, 2012 WL 626202, at \*1. Because of the lack of authority on this issue under Ohio law, this Court may, but is not required to, look to federal law. *Stammco, L.L.C. v. United Tel. Co. of Ohio*, 136 Ohio St. 3d 231, 236 (2013) (“[W]hile not controlling, [federal law] is persuasive authority in interpreting a similar Ohio rule.”).

---

<sup>1</sup> Where applicable, Plaintiff acknowledges *State ex rel. Cincinnati Enquirer v. Shanahan*, 166 Ohio St.3d 382 (2022), a factually dissimilar case in which the Ohio Supreme Court distinguished *Bruner* in ways mostly irrelevant to Plaintiff’s suit.

The decision about whether to allow plaintiffs to pursue claims pseudonymously is subject to an abuse-of-discretion standard.<sup>2</sup> Upon review, a trial court's ruling on a party's request to proceed pseudonymously will not be overturned absent an abuse of discretion, which requires a showing that "there is no sound reasoning process to support the judge's decision." *Compston v. Automanage, Inc.*, 79 Ohio App.3d 359, 367 (12th Dist. 1992); *Hall v. Johnson*, 90 Ohio App.3d 451,455 (1st Dist. 1993).

In "exceptional circumstances," courts, including the Sixth Circuit, have permitted plaintiffs to proceed pseudonymously when "privacy interests substantially outweigh the presumption of open judicial proceedings." *Doe v. Porter*, 370 F.3d 558, 560 (6th Cir. 2004).

Courts have identified numerous factors relevant to balancing a plaintiff's privacy interests against the presumption of openness. All federal circuits weigh the anonymous party's privacy interest against the opposing party's interest in disclosure. The second, seventh, and ninth circuits consider both the public interest in disclosure and any prejudice to the opposing party. In balancing these concerns, the trial court "should carefully review all the circumstances of a given case." *Doe v. Bruner* at \*2 (quoting *Doe v. Frank*, 951 F.2d 320, 323, 11th Cir. 1992).

In *Porter*, the Sixth Circuit identified four concerns for consideration:

- Whether the Plaintiff seeking anonymity is seeking to challenge governmental activity;
- Whether prosecution of the suit will compel Plaintiff to disclose information "of the utmost intimacy";
- Whether the litigation compels Plaintiff to disclose an intention to violate the law, thereby risking criminal prosecution;
- Whether the Plaintiff is a minor. *Doe v. Porter* at \*560, citing *Doe v. Stegall*, 653 F.2d 180, 185–86 (5th Cir. 1981).

---

<sup>2</sup> In *State ex rel. Cincinnati Enquirer v. Shanahan*, the court acknowledged that on appeal, courts regularly review orders granting or denying a party's motion to proceed pseudonymously for an abuse of discretion but rejected the argument (not made here by Deputy Stone) that their scope of review was confined to assessing abuses of discretion when the cases at hand are original actions, not appeals. The court opted to consider *de novo* whether it was appropriate for the plaintiff to proceed using a pseudonym, which Deputy Stone invites.

The first two concerns favor pseudonymity here.

**A. Plaintiff is disclosing information of the utmost intimacy.**

Plaintiff's path to filing this action began with the sexual assault she endured—these harrowing details qualify as “information of the utmost intimacy.” *Doe v. Bruner*, 2012 WL 626202, at \*3, citing *Wolowitz*, E.D. Michigan No. 01–73907, 2002 WL 130614. Plaintiff is concerned, reasonably, that going public as a survivor of sexual assault jeopardizes her reputation and increases her risk of victimization, thus posing a threat to her physical and mental safety.

The prospect of moving forward with litigation is daunting enough for many survivors, and courts have also noted that denying the use of pseudonyms for sexual assault victims has discouraged them from proceeding with litigation altogether. Defendants can weaponize private details and the threat of building a public record to pressure plaintiffs into settling or dropping their cases. The Sixth Circuit has acknowledged the risks posed to the victims of sexual assault who pursue litigation, and recognizing the sensitive and highly personal nature of the topic has permitted survivors to proceed under pseudonymity. *See, e.g., Doe v. Dabbagh*, No. 15-cv-10724, 2015 WL 13806540, at \*2 (E.D. Mich. May 28, 2015); *NMIC Ins. Co. v. Smith*, No. 2:18-cv-533, 2018 WL 7859755, at \*2 (S.D. Ohio Oct. 24, 2018); *Doe v. Kenyon College*, No. 20-cv-4972-MHW-CMV, at 3 (S.D. Ohio Sept. 24, 2020); *Doe v. Mitchell*, No. 2:20-cv-00459, 2020 WL 6882601, at \*7 (S.D. Ohio Nov. 24, 2020), report & recommendation adopted, 2021 WL 2313436 (S.D. Ohio June 7, 2021); *Doe v. Streck*, 522 F. Supp. 3d 332, 334 (S.D. Ohio 2021); *Doe v. Athens County*, No. 2:22-cv-00855-EAS-CMV, at 2 (S.D. Ohio Mar. 15, 2022); *Doe v. FedEx Ground Package Sys., Inc.*, No. 3:21-cv-00395, 2021 WL 5041286, at \*3, \*9 (M.D. Tenn. Oct. 29, 2021) (accepting pseudonymity for plaintiff who alleged rape).



**B. Plaintiff is challenging government activity, thereby exposing her to significant risk of retaliation.**

While not enough to warrant pseudonymity stand-alone, courts strongly consider whether a case involves an individual challenging government activity. *Doe v. Stegall* at \*185, referencing *Southern Methodist University Ass'n v. Wynne & Jaffe*, 599 F.2d at 712-13 nn.8, 9, 10, 11 & 12. A plaintiff seeking to proceed anonymously for fear of retaliation must show that the *filing of the lawsuit* causes a risk of retaliation. *State ex rel. Cincinnati Enquirer v. Shanahan* at \*389, citing: *Doe v. Porter* at \*\*560–62; *Sealed Plaintiff v. Sealed Defendant #1*, 537 F.3d 185, 190 (2d Cir. 2008) at \*190; *Doe v. Stegall*, 653 F.2d at 186; *Doe v. Bruner* at ¶ 9.

Plaintiff's challenge to government activity warrants consideration of pseudonymity given the disproportionate power certain County officials may yield to retaliate against an individual and “subject them to considerable harassment.” *Doe v. Porter* at \*560, citing *Doe v. Stegall*. Plaintiff alleges a disturbing pattern of government misconduct in her Complaint, and arming certain Defendants with the ability to publicize Plaintiff's identity enhances their capacity to retaliate. Plaintiff's fears are reasonable—the threat of retaliation against her is severe. That threat exists for all individuals who dare to challenge their government, most of whom do not qualify for pseudonymity. But Plaintiff Stone is particularly vulnerable to this threat due to the sensitive nature of her claims,<sup>3</sup> which further shifts the balance of considerations in favor of pseudonymity.

**C. Allowing Plaintiff to proceed pseudonymously would not harm Defendants.**

The need for pseudonymity stems first and foremost from the sexual assault and rape. There is no disputing the details of inmate Rondell Harris's assault of Deputy Stone —Harris pleaded

---

<sup>3</sup> The Ninth Circuit has identified three factors that courts should consider when a plaintiff alleges that the use of a pseudonym is necessary to protect against a threat of retaliation: “(1) the severity of the threatened harm, (2) the reasonableness of the anonymous party's fears, and (3) the anonymous party's vulnerability to such retaliation.” *State ex rel. Cincinnati Enquirer v. Shanahan* at \*391, citing *Does I thru XXIII v. Advanced Textile Corp.*, 214 F.3d 1058 (9th Cir. 2000) at \*1068.

guilty on Monday, May 1, 2023 and received a sentence of at least 26 years in prison. Permitting Plaintiff to proceed under a pseudonym in this action would not deprive Defendants of sufficient information to defend against Plaintiff's charges. Defendants know Plaintiff's identity well.

**D. Going public threatens Plaintiff's economic prospects.**

Plaintiff's future and ability to move on from this experience with dignity is paramount. A painful truth is that the enduring stigma around sexual assault could deter future employers. This would be true for field or workplace, but Plaintiff has built her career in law enforcement. There is a second painful truth: historically, women in law-enforcement have had to overcome barriers not faced by their male counterparts. Their strength and "toughness" are more frequently questioned, however unduly. It is a reasonable concern that identifying Plaintiff as a survivor of sexual assault, intersected with biases she faces as a woman in a male-dominated field like law-enforcement, could further impede her ability to move forward in her career on her merits as an officer. Moreover, Plaintiff seeks to avoid *any* differential treatment because of this experience, positive or negative. Plaintiff does not want to be followed by sympathetic glances or bombarded by offerings of support as she seeks to move forward, as well-intentioned as those gestures may be.

**E. Plaintiff's privacy interest substantially outweighs the public's interest in open proceedings.**

The public has a right to know who is using their courts. *State ex rel. Cincinnati Enquirer v. Shanahan* at \*389, citing *Doe v. Blue Cross & Blue Shield United of Wisconsin*, 112 F.3d 869, 872 (7th Cir.1997). Upon reading her Complaint, the public will, regardless of the pseudonym, understand who Plaintiff is, why she has brought the matter before the Court, and why she has requested to do so pseudonymously. The other public interest in open proceedings, scrutinizing government activity and permitting Plaintiff to proceed pseudonymously, will not impede the public's ability to do so.<sup>4</sup>

---

<sup>4</sup> "The public right to scrutinize governmental functioning, 100 S.Ct. at 2827, is not so completely impaired by a grant of anonymity to a party as it is by closure of the trial itself. Party anonymity does not obstruct the

Permitting Plaintiff to proceed under pseudonym protects her personal privacy while still permitting public scrutiny of the allegations of the Complaint.

#### IV. Conclusion

Plaintiff respectfully requests that this Court grant her motion for leave to proceed under the pseudonym “Mary Stone.” Plaintiff’s experience of a matter of “utmost intimacy” warrant pseudonymity here. Plaintiff has great interest in protecting her physical safety, mental wellbeing, and economic future, while there is nothing to be gained by disclosure of her identity.

Plaintiff is, of course, willing to disclose her name to the Court under a protective order. Plaintiffs’ interest is only to avoid her name becoming part of the public record. If the Court does not permit the suit to proceed pseudonymously, Plaintiff requests leave to amend her complaint to include her name (though she hopes it does not come to that).

Dated: May 4, 2023

/s/ Subodh Chandra  
Subodh Chandra (0069233)  
Donald P. Screen (0044070)  
THE CHANDRA LAW FIRM LLC  
The Chandra Law Building  
1265 West 6th Street, Suite 400  
Cleveland, Ohio 44113  
216.578.1700 (p) / 216.578.1800 (f)  
Subodh.Chandra@ChandraLaw.com  
Donald.Screen@ChandraLaw.com

Respectfully submitted,

Per consent  
Martin P. Desmond (0077377)  
Attorney at law  
P.O. Box 14052  
Youngstown, OH 44514  
330.559.4505 (p)  
Mpm4@hotmail.com

*Attorneys for Plaintiff Mary Stone  
(Pseudonym)*

---

public's view of the issues joined or the court's performance in resolving them. The assurance of fairness preserved by public presence at a trial is not lost when one party's cause is pursued under a fictitious name.” *Doe v. Stegall*, 653 F.2d 180, 185 (5th Cir. 1981), quoting *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 100 S.Ct. 2814, 2829 & n.17, 65 L.Ed.2d 973 (1980).

**Certificate of Service**

A courtesy copy of this motion will be forwarded today by email to the following counsel who have identified themselves as counsel for Mahoning County and are also believed to likely be counsel for the individual Defendants:

Daniel Downey <DDowney@fisheldowney.com>

Angelica Jarmusz <ajarmusz@fisheldowney.com>

ELECTRONICALLY FILED  
2023 May 12 PM 12:23  
Anthony P. Vivo, CLERK OF COURT - MAHONING

**IN THE COURT OF COMMON PLEAS  
MAHONING COUNTY, OHIO**

<b>Mary Stone,</b>	)	<b>Case No. 2023 CV 834</b>
	)	
<b>Plaintiff,</b>	)	<b>Judge Anthony Donofrio</b>
	)	
<b>vs.</b>	)	<b>Magistrate Nicole Alexander</b>
	)	
<b>Mahoning County, et al.,</b>	)	<b><u>Judgment Entry</u></b>
	)	
<b>Defendants.</b>	)	

The Court hereby recuses itself from this case and respectfully requests the Administrative Judge of the Mahoning County Court of Common Pleas to immediately reassign this case by lot.

  
Judge Anthony Donofrio